

108TH CONGRESS
1ST SESSION

H. R. 1850

To provide for automatic naturalization for noncitizen members of the Armed Forces ordered to serve in a combat zone, and to extend immigration benefits to surviving spouses, children, and parents of persons granted posthumous citizenship through death while on active-duty service in the Armed Forces.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2003

Mr. GUTIERREZ introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for automatic naturalization for noncitizen members of the Armed Forces ordered to serve in a combat zone, and to extend immigration benefits to surviving spouses, children, and parents of persons granted posthumous citizenship through death while on active-duty service in the Armed Forces.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for America’s
5 Heroes Act”.

1 **SEC. 2. NATURALIZATION THROUGH COMBAT ZONE SERV-**
2 **ICE IN ARMED FORCES.**

3 Section 329 of the Immigration and Nationality Act
4 (8 U.S.C. 1440) is amended—

5 (1) by redesignating subsection (c) as sub-
6 section (d); and

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c)(1) Any person eligible under paragraph (3) who,
10 while an alien or a noncitizen national of the United
11 States, performs active service as a member below the
12 grade of commissioned officer in the Armed Forces of the
13 United States in a combat zone (as defined in section
14 112(c) of the Internal Revenue Code of 1986 (26 U.S.C.
15 112(c))) shall be admitted to citizenship without regard
16 to any other provision of this title upon the commence-
17 ment of such service.

18 “(2) The executive department issuing the order for
19 the service described in paragraph (1) shall, at the time
20 of such issuance, inform the person of the benefits avail-
21 able under this subsection and of the procedure estab-
22 lished by such department for satisfying the requirement
23 of paragraph (3).

24 “(3) In order to be eligible for naturalization under
25 this subsection, a person shall inform the executive depart-
26 ment issuing the order for the service described in para-

1 graph (1) that the person desires to be admitted to citizen-
 2 ship in accordance with this subsection upon the com-
 3 mencement of such service.

4 “(4) The appropriate executive department shall no-
 5 tify the Secretary of Homeland Security when a person
 6 has been naturalized in accordance with this subsection
 7 and of the effective date of such naturalization. The Sec-
 8 retary of Homeland Security, not later than 30 days after
 9 receipt of such notification, shall issue to the person a cer-
 10 tificate of naturalization reflecting such date and any
 11 other information the Secretary determines to be appro-
 12 priate.”.

13 **SEC. 3. IMMIGRATION BENEFITS FOR SURVIVORS OF PER-**
 14 **SONS GRANTED POSTHUMOUS CITIZENSHIP**
 15 **THROUGH DEATH WHILE ON ACTIVE-DUTY**
 16 **SERVICE.**

17 Section 329A(e) of the Immigration and Nationality
 18 Act (8 U.S.C. 1440–1(e)) is amended to read as follows:

19 “(e) BENEFITS FOR SURVIVORS.—

20 “(1) IN GENERAL.—Subject to this subsection,
 21 any immigration benefit available under Federal law
 22 to a spouse, child, or parent of a citizen of the
 23 United States shall be available to a spouse, child,
 24 or parent of a person granted posthumous citizen-

1 ship under this section as if the person's death had
2 not occurred.

3 “(2) SPOUSE.—For purposes of this Act, a per-
4 son shall be considered a spouse of a person granted
5 posthumous citizenship under this section if the per-
6 son was not legally separated from the citizen at the
7 time of the citizen's death.

8 “(3) CHILDREN.—For purposes of this Act, a
9 person shall be considered a child of a person grant-
10 ed posthumous citizenship under this section if the
11 person would have been considered a child (as de-
12 fined in section 101(b)(1)) at the time of the citi-
13 zen's death.

14 “(4) PARENTS.—For purposes of section
15 201(b)(2)(A)(i), the requirement that the citizen be
16 at least 21 years of age shall not apply in the case
17 of a parent of a person granted posthumous citizen-
18 ship under this section.

19 “(5) SELF-PETITIONS.—For purposes of peti-
20 tions and applications for immigration benefits re-
21 quired to be filed under this Act on behalf of a
22 spouse, child, or parent by a citizen of the United
23 States, the spouse, child, or parent shall be per-
24 mitted to self-petition for such benefits as if filed by
25 the person granted posthumous citizenship under

1 this section. Any requirement under this Act for an
2 affidavit of support pursuant to such a petition or
3 application shall be waived.

4 “(6) NO BENEFITS FOR OTHER RELATIVES.—
5 Nothing in this section or section 319(d) shall be
6 construed as providing for any benefit under this
7 Act for any relative of a person granted posthumous
8 citizenship under this section who is not treated as
9 a spouse, child, or parent under this subsection.”.

10 **SEC. 4. EFFECTIVE DATE.**

11 The amendments made by this Act shall take effect
12 as if enacted on September 11, 2001.

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